

INDIANA LEGISLATURE.

[Omissions and omissions of this report from space in these columns will appear in the appendix to Volume XXXIII of the Review Legislative Reports.]

HOUSE OF REPRESENTATIVES.

THURSDAY, March 12, 1885—9 a. m.

PROSECUTING ATTORNEY.

Mr. SEARS called up a motion entered some days ago to recall from the Senate the bill (H. R. 377) to do away with certain fees of prosecuting attorneys, which bill passed the House.

Mr. GOODING: It was passed here by a majority vote, and I do not see why it should be recalled. I know that prosecuting attorneys have been here to fight it.

Mr. MOORE: I voted for the bill, and I would like to know if this move is to reconsider it.

Mr. SEARS: I understand that the gentleman from Marion County (Mr. Jameson) has given notice that he will move to reconsider it.

Mr. ROBINSON: I understand that prosecuting attorneys have been fighting this bill and misrepresenting it in the Senate. This bill makes but one short amendment—that the defendant shall not receive the \$5 fee where the defendant goes willingly before a Justice of the Peace and enters a plea of guilty. If the prosecutor or his deputy is not present, the Justice shall not send for him. If the prosecutor has worked up the case, he may be present upon the calling of his case and claim his fee. But the Justice shall not, as now, when he takes up the case, enter a fee of \$5 for the prosecutor, when the defendant may not be present or never have heard of the case. This bill is to check this practice.

Mr. LOYD: I desire to make the point of order that the merits of the bill are not proper for discussion at this hour.

The SPEAKER: Only in a limited degree—the House wishes to again take up the bill, having not fully understood it. I will say this much for myself: I voted against the bill, but with certain amendments I can vote for it. In the present language it is liable to defeat in the Senate. If the bill is so changed that any guilty man against whom a case has been made through the effort of a Prosecutor may not, to save costs, go before a Justice and thus keep the Prosecutor from fees that he may have earned.

Mr. MOORE: It is a little difficult to vote upon whether the bill shall be brought back or not unless we understand something of its provisions. The bill destroys certain fees of the prosecuting attorney. A law has been on our statute books for thirty years that if a man violates the criminal law he shall not be his own prosecutor. If he assaults his neighbor he shall not go to a remote part of the county and there enter a plea of guilty and prosecute himself. This bill proposes just such a procedure.

The motion to recall the bill was agreed to.

Mr. SMITH, of Tippecanoe, called up his motion, heretofore made, the vote on the bill (S. 45—see pp. 175 and 242, vol. 22) creating an Appellate Court, be reconsidered.

Mr. PATTERSON moved that the motion to reconsider be laid on the table.

The motion to lay the motion to reconsider on the table was rejected by yeas 37, nays 40.

Pending the roll call—

Mr. GOODING, explaining his vote, said: Because the bill is so much changed when up before, I vote "aye" to lay the motion on the table.

Mr. MOORE, when his name was called, said: Because an Appellate Court will create unnecessary expense, and because it will be fully considered, I vote "aye."

Mr. MOORE, in explanation of his vote, said: Because I believe the court is needed, I vote "no."

Mr. McHENRY, when his name was called, said: Before I voted for the bill, according to the wishes of the Fort Wayne bar. Now I shall vote my own convictions, and vote "aye" to lay the motion to reconsider on the table.

Mr. SMITH, of Tippecanoe, explaining his vote said: When I said how I shall vote on the bill, and in order that it may be more fully examined, I vote "no."

The vote was then amended as above.

So the motion to lay the motion to reconsider on the table was tabled.

The motion to reconsider was then agreed to.

Mr. SMITH, of Tippecanoe, moved that the bill lie on the table and that 300 copies be printed.

The motion was agreed to.

RECESS TILL MONDAY.

Mr. PENDLETON submitted a resolution that it is the sense of the House that when it adjourns on Monday morning at 9 o'clock.

Mr. STALEY: The House should not lose time, as the Senate is far ahead of the House with the business of the session.

Mr. PATTERSON said that but two days would be lost, and most of the members had private business at home which demands personal attention. As an extra session was called, many have not their private affairs arranged.

Mr. GORDON: If you adjourn this evening until Monday afternoon, you lose three days—waste that much time; and that is the only thing you can make of it. I move to amend so that the House adjourn to meet on Saturday.

The amendment was rejected.

The motion that the House adjourn until 9 o'clock on Monday morning was agreed to.

TAXATION.

Mr. OVERMAN'S bill (H. R. 472) concerning taxation was read the third time.

Mr. ENGLE: If I understand this bill it proposes to tax the borrower for the money which he may be unfortunate enough to have to borrow, and it makes a lien on the property for these taxes. Foreigners who have money loaned in Indiana will compel the borrowers to pay the taxes upon it. They will do it in some way or manner. It is another system of double taxation. Taxes are paid on the property and the owner will be compelled to pay taxes on the money.

Mr. ADAMS: This bill is a stop toward equalizing taxation, which is not in this particular double.

Mr. BROWNLEE: In cases of mortgage on real estate, deed of trust or other means by which a debt is secured, the bill says the value of the property affected by the mortgage shall be assessed and taxed to the owner of the real estate. I may be taxed on \$2,000, and if I make a loan the bill says I shall be taxed on the value of the real estate less the value of the mortgage. So I am not doubly taxed. This tax may, under the bill, be paid by either the owner of the mortgage or by the borrower.

Mr. GORDON: The bill is in the right direction, but it does not go far enough. I think the bill should not pass. It works an inequality.

Mr. BOOE: I hope this bill will not become a law for the reason that I believe it will do a great extent the men who desire to mortgage their real estate from doing so. It becomes sometimes an absolute necessity in business for owners to mortgage real estate, and under the bill the mortgagee pays taxes to the extent of his loan on the real estate. He has to contract for interest under the existing law, and out of that interest pay this proportion of taxes on the land. There-

fore, in the end the mortgagee will receive but a very small per cent. on his loan, which fact will drive money lenders to obtain money in other ways, and the result will be that holders of real estate can not obtain money upon mortgages. I regard the bill as an obnoxious one; can not vote for it and hope it will not pass.

Mr. HOWELL: I think the law as it stands is much fairer than the bill.

Mr. SIMMONS: The appraised value of 200 acres of land is, say \$4,400, and it is sold for \$7,000, on which there is paid in cost \$1,500, and that leaves \$5,500. Now take the appraised value, say \$4,400, from \$5,500 and there remains \$1,100 exempt, by the parties making long time, at 6 per cent. say for six years on the \$5,500. The average appraised value on land is about \$12 in the county of White, and the average selling price for cash and on time is from \$25 to \$35 an acre. This shows how the bill would operate.

Mr. BEST: I think the arguments here against the bill are unanswerable. Indiana can not afford to adopt any far theory of this kind. If you tax a man in Ohio on the mortgage he holds on Indiana land, you will drive the money lenders from Indiana. If this bill passes you tax a man on his real estate without regard to his indebtedness. If it pass it will exempt two-thirds of the taxable property in the State. Because a man has a mortgage over him it does not make him richer or poorer. I owe some debts for which I have not given a mortgage. Giving a mortgage for that will make me neither richer or poorer. If I borrow \$1,000 and give a mortgage for it, I have the money and I am no poorer, so I should not be released from taxation upon that.

Mr. BOYD hoped the bill would not pass, as it was not effective.

Mr. OVERMAN: The bill may not cover everything. Some gentlemen think it does not go far enough, but it is far better than the old law. It is intended to destroy double taxation. I had experience with California laws, of which this bill is a copy, and it was found to work well there. The only class of men in Indiana I find opposed to this is lawyers, money lenders and bankers. Farmers and business men now favor it.

This is the only bill I have asked for, and as I am by the Apportionment bill legislated out of office, and can never have an opportunity to present a bill at a subsequent General Assembly, I hope it will pass.

The bill was defeated by yeas 34, nays 42.

Pending the roll call—

Mr. BARNES, explaining his vote, said: My objection to this bill is that it will allow most of the railroads to escape taxation.

Mr. BARNEY, in explanation of his vote said: As it will necessitate our sending every assessor to a law school before he is competent, I vote "no."

Mr. BROWNING, when his name was called, said: For the reason that I believe this bill is in the interest of corporations and against the common people, I vote "no."

Mr. DONHOE, explaining his vote, said: For the reason that the bill will make necessary an increase of taxation in Indiana, and will exempt a large number of corporations, I vote "no."

Mr. GARRISON, when his name was called, said: For the reason that it will raise taxes where it should be, and for the reason that poor men all over the State are calling for it, I vote "aye."

Mr. HOBAN, in explaining his vote, said: It will lead to confusion, and while I believe that something in this direction is needed, yet I do not believe that this bill hits it, so I vote "no."

Mr. OSBORNE, when his name was called, said: I like this bill for its good intentions, but in its present form I think it should not become a law, so I vote "no."

Mr. FLEASANTS, in explanation of his vote said: Because I like the bill, I believe that it is demanded by my constituents, I vote "aye."

Mr. REEVES, when his name was called, said: This bill will relieve the burdens of the hard-working class, and I vote "aye."

Mr. BENSON, explaining his vote, said: Believing that while all property should be taxed, none should be doubly taxed, I vote "aye."

Mr. SMITH, of Tippecanoe, in explanation said: I do not believe that the bill will do what is claimed for it, but will lead to confusion, I vote "no."

Mr. SMITH, of Warrick, when his name was called said: In view of the fact that I believe it will relieve the worthy, I vote "aye."

Mr. SPEAKER, in casting his vote, said: I was first moved to vote against the bill, but after the final appeal of the gentleman from Lawrence (Mr. Overman), I shall vote "aye."

The vote was then announced as above.

So the bill was defeated.

ABANDONMENT OF OFFICE.

Mr. REEVES' bill (H. R. 528) concerning the abandonment of office and the appointment of an officer was then read the third time.

Mr. REEVES moved to amend so that the bill shall not apply to any deputy who may have been appointed prior to the passage of this bill, and that the bill, with the amendments, be recommitted to the Committee on the Judiciary.

He said: I want the bill to exclude the Deputy Recorder of Johnson County. The Recorder (J. B. Clemmer) ran away, he was involved, and his brother, taking hold of the office, has brought the chaos of trouble into shape. I have here a long petition from people, irrespective of party, who oppose the bill.

Mr. BROWNING: I think the bill should not pass. As a fact, it looks to me to be unconstitutional. However, to recommend would give time to examine the case from Johnson County.

Mr. RIVERS: This certainly is a Democratic county, and the successor, if any, to the Recorder, would be of the same politics. This man, said to be deputy, is not a deputy, nor never was. In two or three weeks after the Recorder disappeared this man, now in charge of the office, offered and took the oath of office—some twenty-five days after the Recorder was gone. It was no genuine appointment.

Mr. PATTERSON moved that the bill be indefinitely postponed.

Pending which—

The House took a recess till 3 o'clock p. m.

AFTERNOON SESSION.

RECESS TILL SATURDAY.

Mr. SMITH, of Tippecanoe, by consent, offered a resolution that when the House adjourns it adjourn until Saturday noon, to save a constitutional point.

The motion was adopted.

THE OFFICE VACANCY.

The House then took up the unfinished business, to wit, the bill (H. R. 528) to declare a Receptor's office vacant.

Mr. BROWNLEE: There is no way under the law, as it is, that an office can be declared vacant. If any office runs away his office can not be declared vacant. So the bill is not local in its character. If a man is elected to an office he should attend to it or vacate it. The effect of this bill is to put a few county officers greater vigilance in the discharge of their duty. There is a quo warranto proceeding in which a deputy may be cited to appear and show by what authority he acts, but that is the end of it. If he acts from no authority it can not be helped. If a man should look up his office and leave you can not under the present law declare the office vacant, for the reason

that you have no defendant to serve in the case. You can not put up a strawman as defendant, and try the case. I do not know a thing about the Johnson County case. I am not trying that. I favor only a general law. I want to protect people there in the record of their deeds, if the present incumbent of that office has not the proper authority.

The SPEAKER: I will interrupt the proceedings for this statement. I wish to withdraw from the House now to catch my train for home, and I will call the gentleman from Dearborn (Mr. McMullen) to the chair. I would advise that you catch the train at will and then adjourn until Saturday. I see that there is not sufficient number of members to give the bill a vote.

Mr. DEEM: It has been sought to kill this bill by recommitment. I submit that the official record of the House should be the mission of that county should have the right to appoint a man to that office, to save all questions as to legality.

Mr. MOODY: It is said here that you can not declare an office vacant, when an officer has abandoned it, because you can not have personal service. The law says that personal service may be had by leaving the summons at his last place of residence. To be an officer, a man must be a resident of the county. This is a proposition for special legislation—for if the bill is passed, it goes through with the express purpose of accommodating Johnson County. Under the present law the Court may vacate the office. The people of Johnson County want this case left where it is in my opinion. I have heard nothing, but I so judge because the bonismen are not complaining of the man who is now serving.

Mr. REEVES: In regard to those bonds men, I am informed that they did undertake to surrender the office, and the Judge, as able a man as there is in this State, and he in open court did not find authority to remove the incumbent. In regard to the people, I represent them, and they want the office vacated. If some other gentlemen here represent Johnson County more than I, I propose to go home and write them. If the measures proposed by this bill are already on the statute, why oppose it?

Mr. GOODING: If the gentleman will allow me a word: Some of the provisions are in the law, but all and some of those not in the law we oppose.

Mr. RIVERS: That Treasurer has been gone four months. I believe he is dead. I have been told that there is not a man in Johnson County who can locate the last residence of Clemmer.

Pending action upon the motion to indefinitely postpone the bill—

The House adjourned pursuant to the order heretofore adopted till Saturday afternoon at 2 o'clock.

RAILWAY NEWS.

The L. D. and S. to Pass Into the Hands of Its Owners—The Vandalia and the East-Bound Pool.

Officials of the Illinois Midland state that arrangements have been made whereby that road will secure a direct route to prominent points in Nebraska and Kansas. A thorough announcement of the route will be made shortly and the Midland expects to enter the field as a prominent competitor for Western business.

The roads which contemplate the adoption of the electric head-light are at present considering the question as to whether or not the increased brilliancy of the light will warrant the expenditure of a large sum of money to place it on all passenger engines. An electric headlight cost about \$1,000, as much as the ordinary oil light, being in every way its superior, and requiring but very little care.

A railroad man says that the trunk line pool has about gone to pieces, and the set of Commissioner Fink in ordering a reduction in rates from Chicago to New York is for the purpose of keeping it together. The pooling system, he says, is in a demoralized condition, and this is one of the methods resorted to to keep it intact. It is generally conceded that little or no money is being made by any of the roads at the present rates, the expenses of transportation being barely paid.

The Vandalia within the past week has seriously considered the question of giving notice of withdrawal from the St. Louis East-Bound Pool. According to the pool agreement sixty days notice is required before withdrawal in order to give the roads a chance to even up. A freight agent says that he does not believe the Vandalia will withdraw without giving notice, for should the pool be broken up at once some of the roads would be left with a balance due them and no one to pay it. This same railroad man, whose headquarters are in St. Louis, says that it is the only city which has ever maintained a genuine pool. Indianapolis, Louisville and Chicago, he says, have called pools and make a pretense of evening up on freight, but it is only a pretense. The St. Louis pool is a money pool, and when a road comes out ahead its percentage it has to give a check to even up.

MEETING OF THE MONON DIRECTORS.

New York, March 12.—At the meeting of the Directors of the Louisville, New Albany and Chicago Railroad to-day, the following officers for the ensuing year were elected:

President, William Dowd, of New York; Vice President and General Manager, John B. Carson; Secretary and Treasurer, W. H. Lewis; Assistant Secretary and Treasurer, William Dales, Jr.; Executive Committee, John Jacob Astor, Samuel Sloan, Robert Lenox, William Lowry, R. G. Rolston and Robert R. Hitt.

ANNUAL REPORT OF THE REE LINE.

CLEVELAND, O., March 12.—The annual reports of officers of the Cleveland, Columbus, Cincinnati and Indianapolis Railway Company, were submitted to-day: Gross earnings for the year ending December 31, 1884 were \$3,211,742, and expenses and interest, \$3,518,925. The decrease in gross earnings compared with 1883, was 12 1/2 per cent., and gross tonnage 7 per cent. The bonded debt of the company was increased during the year by \$1,221,000, and now stands at \$8,500,000. The cause of the increase was for the purpose of securing control of lines between Indianapolis and St. Louis.

THEY ABANDON THE LEASE.

For nearly a year past the L. B. and W. people have been contemplating the abandonment of their fifty-year lease of the L. D. and S., which was made about three years ago. During this time the L. D. and S. has been barely able to pay operating expenses, and, naturally enough, the L. B. and W. folks were anxious to get it off their hands, and it seems that they have succeeded admirably. President Hammond, T. Atkins, Secretary, and J. Probst, one of the stockholders of the L. D. and S., and J. D. Campbell, General Solicitor of the L. B. and W., met in this city yesterday to make the final arrangements for the transfer of the road to the second mortgage bondholders. Mr. Hammond and party took a trip over the road yesterday morning, returning last night, and to day the necessary papers making the

transfer will be signed. General Solicitor Campbell in conversation with a reporter yesterday morning said that the L. B. and W. did not abandon the road with a view to purchasing it. It was a bona fide transfer to the owners who will operate it themselves. When the L. B. and W. leased the road it was with the intention to extend it to St. Louis, but owing to hard times they abandoned the idea. It was now their intention, he said, to secure if possible the St. Louis division of the T. C. and St. L., and by making it standard gauge west of Veedburg secure a good route to the above point. They will not, however, extend the line to St. D. and S. will now operate it mainly for local traffic, and there is great rejoicing over the transfer. They will take possession of it as soon as the details of the transfer are arranged.

SOME COMPLAINTS.

The Democracy of Tipton County are not in the best of humor, and, strange to say, it is not the Republican party of whom they would complain.

The selection of the President's Cabinet were recognized as having been made with great care and composed of the best men of the Nation. Yet we had hoped that the President would not fail to see, that of this great Nation, the event was the lever that furnished propelling power to our ship of state, and in recognizing this fact he would have selected a Western man; one who was abreast of the spirit of advancement and civilization of the age in which we live, and that he would select as a member of his Cabinet, one who would not only represent the great West and the Democratic party, but the entire people; one who is known and respected wherever there is a man who toils for his daily bread, or wherever there is a man who loves liberty and "equal and exact justice to all men."

The honored name of Joseph E. McDonald, the lawyer and statesman, is familiar, and while the Cabinet is not just as we would have made it, it is a good one, and one that will give entire satisfaction to all; and the Democracy of Tipton County will give them the same unswerving devotion which has ever characterized them in the party. But it was not of this we started to write, but of the late Congressional gerrymander.

Now in starting out, Mr. Editor we of Tipton County need no one to stand up in defense of our Democracy. We invariably, as you well know, vote the ticket without a scratch, and at each election add to our majority. Yet the Democracy of Tipton County repudiate this unjust act, which robs our able Representative in Congress, Tom Ward, of his hard-earned laurels. We repudiate it also because it disfranchises legal voters, and does not give what we have clamored for—a fair count.

After the gallant fight Tom Ward made in 1882, in which he defeated one of the oldest and ablest representatives in the Republican party, and at the last election, when every effort that man could make was put forth in behalf of a public-spirited citizen, an able man and a gallant soldier, who had served his country faithfully and well; yet, while Blaine carried the district, Ward again had a good round majority over Hon. Charles T. Dorey.

Now I ask is this act justice to Ward? Is it justice to the gallant Democracy of the West, who have fought the way up from an overwhelming Republican majority until the district, with Ward as its leader, is reliably Democratic. Is it justice that they be slain in the house of their friends? I answer my own question by saying "no." It is not justice to Ward, nor to the Democracy of Tipton County, having learned that the Legislature would be convened in extra session, desire that Chairman Avery call a convention of the Democracy of the district to meet at Indianapolis on a rainy day as possible, and in convention let us demand that the law be amended by restoring our district to its former proportions, and giving them to understand that if it is not done we will hold the State ticket at the coming election responsible for the loss of the district. Ward again had a good round majority over Hon. Charles T. Dorey.

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